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6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE DISTRICT OF ARIZONA**  
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9 United States of America,

10 Plaintiff,

11 v.

12 Marcelino Grave-Perez,

13 Defendant.  
14

**NO. CR-19-00820-001-PHX-SPL**

**FINDINGS AND  
RECOMMENDATION OF THE  
MAGISTRATE JUDGE UPON A  
PLEA OF GUILTY AND ORDER**

15 **TO THE HONORABLE STEVEN P. LOGAN, U.S. DISTRICT JUDGE:**

16 Upon Defendant's request to enter a plea of guilty pursuant to Rule 11 of the  
17 Federal Rules of Criminal Procedure, this matter came on for hearing before U.S.  
18 Magistrate Judge James F. Metcalf on July 12, 2019, with the written consents of the  
19 defendant, counsel for the defendant, and counsel for the United States of America.

20 The Magistrate Judge accepted defendant's waiver of indictment after inquiry was  
21 made of the defendant as to his/her understanding of the right to prosecution by  
22 indictment. Defendant's written waiver constitutes a part of the plea agreement that has  
23 previously been lodged with the Court. Thereafter, the matter came on for a hearing on  
24 defendant's plea of guilty in full compliance with Rule 11, Federal Rules of Criminal  
25 Procedure, before the Magistrate Judge in open court and on the record.

26 In consideration of that hearing and the statements made by the defendant under  
27 oath on the record and in the presence of counsel, and the remarks of the Assistant United  
28 States Attorney and of counsel for defendant,

1 I FIND as follows:

2 (1) that defendant understands the nature of the charge against him/her to which  
3 the plea is offered and the elements of the offense(s) to which he/she is pleading guilty;

4 (2) that defendant understands his/her right to trial by jury, to persist in his/her  
5 plea of not guilty, to the assistance of counsel at trial, to confront and cross-examine  
6 adverse witnesses, and his/her right against compelled self-incrimination;

7 (3) that defendant understands what the maximum possible sentence is, including  
8 the effect of the supervised release term, and defendant understands that the sentencing  
9 guidelines are advisory, not mandatory, and that the Court may sentence outside those  
10 guidelines if defendant is convicted at trial;

11 (4) that the plea of guilty by the defendant has been knowingly and voluntarily  
12 made and is not the result of force or threats or of promises apart from the plea agreement  
13 between the parties;

14 (5) that defendant is competent to plead guilty;

15 (6) that defendant understands that his/her answers may later be used against  
16 him/her in a prosecution for perjury or false statement;

17 (7) that defendant understands that by pleading guilty he/she waives the right to a  
18 jury trial;

19 (8) that defendant understands the terms of any plea agreement provision waiving  
20 the right to appeal or to collaterally attack the sentence, and has knowingly, intelligently  
21 and voluntarily waived those rights;

22 (9) that the defendant is satisfied with counsel's representation; and

23 (10) that there is a factual basis for the defendant's plea; and further,

24 I RECOMMEND that the Court accept the defendant's plea of guilty.

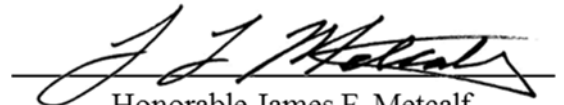
25 IT IS ORDERED that any objection to the guilty plea proceedings and any request  
26 for supplementation of those proceedings be made by the parties in writing and shall be  
27 specific as to the objection or request made. All objections or requests for  
28 supplementation shall be filed within fourteen (14) days of the date of service of a copy

1 of these findings unless extended by an Order of the assigned district judge.

2 IT IS FURTHER ORDERED that any letters, documents, or other matters  
3 Defendant would like the sentencing judge to consider before sentencing (including the  
4 English translation of any writings not in English) must be submitted in paper form with  
5 the original to the probation office and copies to the sentencing judge and opposing  
6 counsel no later than seven (7) business days prior to the sentencing date or they may be  
7 deemed untimely by the sentencing judge and not considered.

8 IT IS FURTHER ORDERED that any motions for upward or downward  
9 departures or any sentencing memoranda must be filed at least seven (7) business days  
10 prior to the sentencing date. Responses are due three (3) business days prior to the  
11 sentencing date. Any motion to continue sentencing must be filed promptly upon  
12 discovery of the cause for continuance and must state the cause with specificity. Motions  
13 to continue sentencing filed less than fourteen (14) days before sentencing are disfavored.  
14 If either party intends to call a speaker at sentencing, other than the Defendant, counsel  
15 must notify the Courtroom Deputy at least 3 business days in advance.

16 Dated: July 15, 2019.

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20 Honorable James F. Metcalf  
21 United States Magistrate Judge  
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